



University of California  
Ernest Orlando Lawrence  
Berkeley National Laboratory

**REPRESENTATIONS AND CERTIFICATIONS**

(This solicitation is issued under Contract No. DE-AC03-76SF00098 with the Department of Energy.)

The following Representation & Certification solicitation provisions must be completed and this form must be signed and returned with the offeror's proposal. As used herein, the term "Contract" shall mean the Subcontract resulting from this solicitation; the term "Contractor" shall mean the entity (hereinafter "Subcontractor") who shall enter into the Subcontract with the University; the term "subcontract" shall mean the Subcontractor's subcontractor; and the terms "Government" and "Contracting Officer" shall mean the University. The term "Offer" includes "Bid," "Proposal," and "Quotation;" and the term "Offeror" includes "Bidder," "Proposer," and "Quoter", as may be applicable.

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**1. TYPE OF ORGANIZATION**

(check & complete all that applies)

- ☐ Sole proprietorship ☐ Partnership ☐ Corporation  
incorporated under the laws of the state of \_\_\_\_\_
- ☐ Educational institution ☐ Other non-profit organization
- ☐ Joint Venture ☐ Foreign Government entity
- ☐ U.S. Government entity (Federal, state, or local)
- ☐ International organization (per 22 U. S. C. 288-288f)
- ☐ Non-U.S. company, institution, or organization (describe below)
- ☐ Other (describe): \_\_\_\_\_
- ☐ Number of employees: \_\_\_\_\_ (If other than a government entity)

**2. TAXPAYER IDENTIFICATION  
(OCT 1998)**

(a) Definitions.

"Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

"Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation

(FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) Taxpayer Identification Number (TIN).

- ☐ TIN: \_\_\_\_\_
- ☐ TIN has been applied for.
- ☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

- ☐ Offeror is an agency or instrumentality of a foreign government;
- ☐ Offeror is an agency or instrumentality of the Federal Government.

(e) Type of organization.

- ☐ Sole proprietorship;
- ☐ Partnership;
- ☐ Corporate entity (not tax-exempt);
- ☐ Corporate entity (tax-exempt);
- ☐ Government entity (Federal, State, or local);
- ☐ Foreign government;
- ☐ International organization per 26 CFR 1.6049-4;
- ☐ Other \_\_\_\_\_

(f) Common parent.

SOLICITATION NUMBER \_\_\_\_\_

Date	Signature	Firm	Title
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# University of California, Ernest Orlando Lawrence Berkeley National Laboratory

Representations and Certifications for solicitation Issued Under Contract No. DE-AC03-76SF00098 with the Department of Energy

☐ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

☐ Name and TIN of common parent:

Name \_\_\_\_\_

TIN \_\_\_\_\_

(FAR 52.204-3)

### 3. SMALL BUSINESS PROGRAM REPRESENTATIONS (MAY 2001)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is \_\_\_\_\_ [insert NAICS code].

(2) The small business size standard is \_\_\_\_\_ [insert size standard].

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) Representations.

(1) The offeror represents as part of its offer that it ☐ is, ☐ is not a small business concern.

(2) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, for general statistical purposes, that it ☐ is, ☐ is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents as part of its offer that it ☐ is, ☐ is not a women-owned small business concern.

(4) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents as part of its offer that it ☐ is, ☐ is not a veteran-owned small business concern.

(5) [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.] The offeror represents as part of its offer that it ☐ is, ☐ is not a service-disabled veteran-owned small business concern.

(6) [Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, as part of its offer, that-

(i) It ☐ is, ☐ is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office of ownership, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

(ii) It ☐ is, ☐ is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: \_\_\_\_\_.] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(c) Definitions. As used in this provision-

"Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (a) of this provision.

"Women-owned small business concern" means a small business concern-

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

"Veteran-owned small business concern" means a small business concern-

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Service-disabled veteran-owned small business concern"-

(1) Means a small business concern-

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

(d) Notice.

(1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall-

(i) Be punished by imposition of fine, imprisonment, or both;

(ii) Be subject to administrative remedies, including suspension and debarment; and

(iii) Be ineligible for participation in programs conducted under the authority of the Act.

(FAR 52.219-1 & Alt I)

**4. SMALL DISADVANTAGED BUSINESS STATUS**  
**(OCT 1999)**

*(Applicable if the offeror represents that it is a small disadvantaged business concern.)*

(a) General. This provision is used to assess an offeror's small disadvantaged business status for the purpose of the evaluation of the offer. Status as a small business and status as a small disadvantaged business for general statistical purposes is covered by the Small Business Program Representation provision, above.

(b) Representations.

(1) General. The offeror represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either--

☐ (i) It **has** received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

(A) No material change in disadvantaged ownership and control has occurred since its certification;

(B) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(C) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net); or

☐ (ii) It **has** submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(2) ☐ For Joint Ventures. The offeror represents, as part of its offer, that it **is** a joint venture that complies with the requirements at 13 CFR 124.1002(f) and that the representation in paragraph (b)(1) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. *[The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture]*

(c) Penalties and Remedies. Anyone who misrepresents any aspects of the disadvantaged status of a concern for the purposes of securing a contract or subcontract shall: (1) Be punished by imposition of a fine, imprisonment, or both; (2) Be subject to administrative remedies, including suspension and debarment; and (3) Be ineligible for participation in programs conducted under the authority of the Small Business Act.

(FAR 52.219-22)

**5. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS**  
**(FEB 1999)**

*(Not Applicable to performance on Indian Reservations or outside the U.S. by employees not recruited within the U.S.)*

The Offeror represents that:

(a) It **has** ☐, **has not** ☐, participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

(b) It **has** ☐, **has not** ☐, filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before lower-tier subcontract awards.

If (a) above is answered "has participated" and (b) above is answered "has not filed all required compliance reports," the Offeror certifies as the applicable reason that: it has less than fifty employees ☐; it **is not** ☐ a Federal Government prime contractor or subcontractor with a contract, subcontract or purchase order amounting to \$50,000 or more.  
(FAR 52.222-22)

**6. AFFIRMATIVE ACTION COMPLIANCE**  
**(APR 1984)**

*(Not applicable to Construction Work or Work on Indian Reservations or outside the U.S. by employees not recruited within the U.S.)*

The offeror represents that (a) it ☐ **has** developed and has on file, ☐ **has not** developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or (b) it ☐ **has not** previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(FAR 52.222-25)

**7. PROHIBITION OF SEGREGATED FACILITIES**  
**(FEB 1999)**

(a) "Segregated Facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

(FAR 52.222-21)

**8. COMPLIANCE WITH VETERANS' EMPLOYMENT**  
**REPORTING REQUIREMENTS**  
**(DEC 2001)**

*(Applicable to offers exceeding \$100,000 other than commercial supplies & services)*

By submission of its offer, the offeror represents that, if it is subject to the reporting requirements of 38U.S.C. 4212(d) (i.e., if it has any contract containing Federal Acquisition Regulation clause 52.222-

37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans), it has submitted the most recent VETS-100 Report required by that clause.

(FAR 52.222-38)

**9. CERTIFICATION AND DISCLOSURE REGARDING  
PAYMENTS TO INFLUENCE CERTAIN FEDERAL  
TRANSACTIONS  
(APRIL 1991)**

*(Applicable to offers exceeding \$100,000 other than commercial supplies & services)*

(a) The definitions and prohibitions contained in the clause at FAR 52.203-12 "Limitation on Payments to Influence Certain Federal Transactions", included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies, to the best of his or her knowledge and belief that on or after December 23, 1989,—

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(FAR 52.203-11)

**10. CERTIFICATION REGARDING DEBARMENT,  
SUSPENSION, PROPOSED DEBARMENT, AND OTHER  
RESPONSIBILITY MATTERS  
(DEC 2000)**

*(Applicable to offers exceeding \$100,000)*

(a) (1) The Offeror certifies, to the best of its knowledge and belief, that--

(i) The Offeror and/or any of its Principals--

(A) **Are ☐, are not ☐** presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) **Have ☐, have not ☐**, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property;

(C) **Are ☐, are not ☐** presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision; and

(ii)(A) The Offeror, aside from the offenses enumerated in paragraphs (a)(1)(i)(A), (B), and (C) of this provision, **has ☐, has not ☐**, within the past three-years, relative to tax, labor and employment, environmental, antitrust, or consumer protection laws –

(1) Been convicted of a federal or state felony (or has any Federal or state felony indictments currently pending against them); or

(2) Had a Federal court judgment in a civil case brought by the United States rendered against them; or

(3) Had an adverse decision by a Federal administrative law judge, board, or commission indicating a willful violation of law.

(B) If the offeror has responded affirmatively, the offeror shall provide additional information if requested by the Contracting Officer; and

(iii) The Offeror **has ☐ has not ☐**, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when

making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default

(FAR 52.209-5)

**11. BUY AMERICAN ACT – PROGRAM CERTIFICATE  
(MAY 2002)**

*(Not applicable to solicitations for Construction Services)*

The offeror certifies that each end product to be delivered, except those listed below, is a domestic end product (as defined in the FAR subcontract clause of this solicitation entitled *Buy American Act - Supplies*), and that the Offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The Offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

Foreign End Products	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(The University will take into consideration applicable provisions of FAR Part 25 in evaluating offers for foreign end products)

(FAR 52.225-2)

**12. REPRESENTATION OF LIMITED RIGHTS DATA AND RESTRICTED COMPUTER SOFTWARE  
(MAY 1999)**

*(Applicable to offers where proprietary data or computer software may be used in performance of the subcontract)*

(a) This solicitation sets forth the work to be performed if a Subcontract award results, and the University's/DOE's known delivery requirements for data (as defined in DEAR 927.409). Any resulting Subcontract may also provide the University/DOE the option to order additional data under the Additional Data Requirements clause at 52.227-16 of the FAR, if included in the Subcontract. Any data delivered under the resulting Subcontract will be subject to the Rights in Data - General clause at 52.227-14 that is to be included in the Subcontract. Under the latter clause, a Subcontractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data in lieu thereof. The latter clause also may be used with its Alternates II and/or III to obtain delivery of limited rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate. In addition, use of Alternate V with this latter clause provides the University/DOE the right to inspect such data at the Subcontractor's facility.

(b) The Offeror shall complete the representation in paragraph (c) of this provision to either state that none of the data qualify as limited rights data or restricted computer software, or identify, to the extent feasible, which of the data qualifies as limited rights data or restricted computer software. Any identification of limited rights data or restricted computer software in the Offeror's response is not determinative of the status of such data should a Subcontract be awarded to the Offeror.

(c) Offeror has reviewed the requirements for the delivery of data, including computer software, and states:

(check appropriate block)

☐ None of the data proposed for fulfilling such requirements qualifies as limited rights data or restricted computer software.

☐ Data proposed for fulfilling such requirements qualify as limited rights data or restricted computer software and are identified as follows:

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**NOTE:** The terms "data", "limited rights data", "restricted computer software", "computer software", and "form, fit, and function data" are defined in DEAR 927.409 as follows:

*Data* means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include data incidental to the administration of the subcontract, such as financial, administrative, cost and pricing, or management information.

*Limited Rights Data* means data, other than computer software, developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged. (The Government's rights to use, duplicate, or disclose limited rights data are as set forth in the Limited Rights Notice of subparagraph (g)(2) of the Rights in Data - General clause.)

*Restricted Computer Software* means computer software developed at private expense and that is a trade secret; is commercial or financial and is confidential or privileged; or is published copyrighted computer software, including minor modifications of any such computer software. (The Government's rights to use, duplicate, or disclose restricted computer software are as set forth in the Restricted Rights Notice of subparagraph (g)(3) of the Rights in Data - General clause.)

*Computer Software* means (i) computer programs which are data comprising a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations, and (ii) data comprising source code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the computer program to be produced, created, or compiled. The term does not include computer data bases.

*Form, Fit, and Function Data* means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, as well as data identifying source, size, configuration, mating, and attachment characteristics, functional characteristics, and performance requirements; except that for computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithm, process, formulae, and flow charts of the software.

(FAR 52.227-15)